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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/853,216	05/11/2001	Thomas D. Petite	81607-1120	6375

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EXAMINER

MOONEYHAM, JANICE A

ART UNIT	PAPER NUMBER
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3629

DATE MAILED: 11/17/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/853,216

Applicant(s)

PETITE ET AL.

Examiner

Jan Mooneyham

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 09 August 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 16-32 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 16-32 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

### **DETAILED ACTION**

1. This is in response to the applicant's communication filed on August 9, 2004, wherein:  
  
Claims 16-32 are currently pending in this application;  
  
Claims 1-15 are cancelled;  
  
Claims 16-32 have been added;  
  
No claims have been amended.

#### ***Continued Examination Under 37 CFR 1.114***

2. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on August 9, 2004 has been entered.

#### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

3. Claims 18-25, 28 and 29 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. How is the transmitter adjusted? How is the reservation processing unit configured to accept the reservation through a network link? How is the reservation processing unit configured to make the

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reservation upon receiving the identification? How is the processing unit configured to bill charges to an account? How is the identification information verified and validated? How is the database remotely accessed by the reservation processing unit through a network? How is the power on the signal adjusted? How is the power of the transmitter adjusted?

***Claim Rejections - 35 USC § 102***

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

4. Claims 24 and 30 are rejected under 35 U.S.C. 102(e) as being anticipated by Sim (US 2003/0093167).

Referring to Claim 24:

Sim discloses a method for processing reservations comprising the steps of:

receiving a transmitted low-power electromagnetic signal including customer identification information at a receiver located at an establishment utilizing reservations, the transmitted low-power electromagnetic signal generated by depressing a manually-operative transmit button of a remote access unit, and the power of the low power electromagnetic signal adjusted such that the receiver is capable of receiving the customer identification information only when the remote access unit is within close proximity of the receiver (Figs 1-10, page 1 [0006], page 5 [0060]);

retrieving the customer identification information from the transmitted low-power electromagnetic signal (page 2 [0018-0021]);

updating reservation information using the customer identification information (page 1 [0006]); and

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providing a notification that a customer has arrived that a customer has arrived (page 2 [0015], abstract).

Referring to Claim 30:

Sim discloses a method comprising displaying the updated reservation information (page 3 [0033], page 5 [[0064-0065]

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 16-23, 25-29, 31 and 32 rejected under 35 U.S.C. 103(a) as being unpatentable over Zalewski et al (US 6,771,981) (hereinafter referred to as Zalewski) in view of Sim (US 2003/0093167) (hereinafter referred to as Sim)

Referring to Claims 16, 31 and 32:

Zalewski discloses system and medium for processing reservations, comprising:

a reservation processing unit located at an establishment and configured to track and process a customer reservation, the establishment utilizing reservations (Fig. 8, col. 16, lines 35-60);

a receiving means for receiving data transmitted via electromagnetic waves, the receiving means being operatively disposed with the reservation processing unit (Fig. 8, col. 16, lines 35-60);

a remote access unit having a low power transmitter (Figs. 2A, 2B (21)), the remote access unit further having a manually-operated transmit button and controller, responsive to the transmit button (keypad, col. 6, lines 50-53), to retrieve information and transmit the customer information from the low power transmitter, the low power transmitter configured to transmit at a level of power such that the receiving means is capable of receiving the customer information only when the low power transmitter is within close proximity of the reservation processing unit (Fig. 8, col. 6, line 37 thru col. 7, line 5 and lines 47-62, col. 16, lines 35-60).

Zilewski does not disclose the remote access unit having a memory configured to store customer identification and transmitting the customer identification information only when the low power transmitter is within close proximity of the reservation processing unit.

However, Sim teaches the remote access unit having a memory configured to store customer identification and transmitting the customer identification information only when the low power transmitter is within close proximity of the reservation processing unit (abstract, page 1 [0006], page 2 [0018, 0019]))

It would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate into the disclosure of Zalewski the teachings of Sim because allows the detectors to identify whether the user is in the vicinity and by providing formation on the whereabouts of the users, this provides useful management information and gives the ability to influence users' movements which can lead to economic advantages and also the reduction in power levels of the transmitters reduces the likelihood of interference between transmitted codes.

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Referring to Claim 17:

Both Zilewski and Sim disclose wherein the establishment is a business location (Zilewski - col. 16, lines 35-61 and Sim (theme park))

The fact that the establishment utilizing the reservations is one of a restaurant, parking lot, and a business location is determined to be nonfunctional descriptive data and thus is given little patentable weight. This data is not functionally interrelated with the useful acts, structure, or properties of the claimed invention and thus will not server as a limitation. See *In re Gulack*, 217 USPQ 401 (CAFC 1983), *Ex parte Carver*, 227 USPQ 465 and *In re Lowry*, 32 USPQ2d 1031 (CAFC 1994)

Referring to Claims 18 and 25:

Both Zilewski (col. 6, lines 37-49) and Sim (abstract, page 1 [0006]) disclose low frequency transmitters for transmitting identification information. The fact that the transmitter is located in a parking lot of the establishment is determined to be non-functional descriptive data and thus given little patentable weight.

Referring to Claims 19 and 26:

Zilewski discloses a reservation processing unit is configured to accept the reservation through a network link (col. 17, lines 23-35, Figs. 9 and 13).

Referring to Claims 20 and 27::

Sim discloses a system and method wherein the reservation processing init is configured to make the reservation upon the receiving means receiving the customer identification information from the low-power transmitter (abstract, page 1 [0006]).

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Referring to Claims 21 and 28:

Both Zilewski and Sim disclose a system and method wherein the reservation processing unit is configured to bill charges to an account associated with the customer identification information upon the transmission of the customer identification information to the reservation processing unit (Zilewski – Fig. 11, col. 17, lines 42-67; Sim page 4 [0040]).

Referring to Claims 22 and 29:

Zilewski discloses a system and method further including a database having stored customer identification information, wherein the reservation processing unit is configured to verify that the customer identification information received by the receiving means is valid by accessing the database (Fig. 5A, Fig. 11, col. 17, lines 42-67).

Referring to Claim 23:

Zilewski discloses a system wherein the database is remotely accessed by the reservation processing unit through a network (col. 17, lines 23-35, Figs. 9 and 13).



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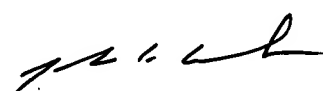
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jan Mooneyham whose telephone number is (703) 305-8554.

The examiner can normally be reached on Monday through Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Weiss can be reached on (703) 308-2702. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

jm,



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